

In the following proposed regulation, underline indicates added or amended text and strikethrough indicates deleted text.

Section 3097 is amended to read:

3097 Inmate Restitution Fine and Direct Order Collections.

Subsection 3097(a) is amended to read:

(a) When an inmate owes any ~~part of~~ obligation pursuant to a direct order of restitution imposed by a court, the director shall deduct ~~20~~30 percent or the balance owing, whichever is less, from ~~the~~inmate's wages and trust account deposits regardless of the source of such income, ~~with~~subject to the exemptions enumerated in ~~(e) and (f)~~subsection (h). In addition, A ~~an~~ administrative fee ~~that totals of~~ 10 percent of the ~~20 percent~~ deduction shall ~~also~~ be deducted ~~for to~~ reimbursing ~~the~~ departmental for its administrative costs, for a maximum deduction of ~~22~~33 percent. A maximum deduction of 33 percent shall remain in effect through December 31, 2003 at which time subsection (b) shall take effect.

New subsection 3097(b) is adopted to read:

(b) Effective January 1, 2004 and thereafter, when an inmate owes any obligation pursuant to a direct order of restitution imposed by a court, the department shall deduct 50 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income, subject to the exemptions enumerated in subsection (h). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 55 percent.

Existing subsection 3097(b) is renumbered to new subsection 3097(c) and is amended to read:

~~(b)~~(c) When an inmate owes any ~~part of~~ obligation pursuant to a restitution fine imposed by a court, the ~~director~~department shall deduct ~~20~~30 percent or the balance owing, whichever is less, from ~~the~~the inmate's wages and trust account deposits regardless of the source of such income, ~~with~~subject to the exemptions enumerated in ~~(e) and (f)~~subsection (h). In addition, A ~~an~~ administrative fee ~~that totals of~~ 10 percent of the ~~20 percent~~ deduction shall ~~also~~ be deducted ~~for to~~ reimbursing

reimbursing ~~the~~ departmental ~~for its~~ administrative costs, for a maximum deduction of ~~22~~33 percent. The ~~total~~ amount deducted, less the administrative fee, shall be transferred to the ~~State Board of Control~~ California Victim Compensation and Government Claims Board for deposit in the Crime Victims' Restitution Fund in the State Treasury. The ~~inmate shall be credited for the~~ ~~total~~ amount deducted, less the administrative fee, ~~shall also be credited~~ against the amount owing on the fine. A maximum deduction of 33 percent shall remain in effect through December 31, 2003 at which time subsection (d) shall take effect.

New subsection 3097(d) is adopted to read:

(d) Effective January 1, 2004 and thereafter, when an inmate owes any obligation pursuant to a restitution fine imposed by a court, the department shall deduct 50 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income subject to the exemptions enumerated in subsection (h). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 55 percent. The amount deducted, less the administrative fee, shall be transferred to the California Victim Compensation and Government Claims Board for deposit in the Crime Victims' Restitution Fund in the State Treasury. The inmate shall be credited for the amount deducted, less the administrative fee, against the amount owing on the fine.

Existing subsection 3097(c) is renumbered to new subsection 3097(e) and is amended to read:

(ee) When an inmate owes both a restitution fine and a direct order of restitution from ~~the a~~ sentencing court, the ~~D~~department ~~of Corrections~~ shall collect on the direct order(s)/s of restitution first. Upon satisfaction of the direct order(s)/s of restitution, collection of any unsatisfied restitution fine(s)/s shall commence until paid in full.

Existing subsection 3097(d) is renumbered to new subsection 3097(f) and is amended to read:

(df) Fines and direct orders of restitution shall be collected ~~on~~ from inmates who owe restitution while the inmate/parole violator remains ~~in the continuous custody~~ under the jurisdiction of the

~~California Department of Corrections~~, with certain permissive exceptions, at the discretion of the Director, set out in subsection (g).

Existing subsection 3097(e) is renumbered to subsection 3097(g) and is amended to read:

(~~eg~~) Fines and direct orders of restitution ~~shall not~~may be collected ~~on~~from inmates and parole violators housed in a Reception Center, Community Correctional Center, ~~(Community Correctional Facility, Community Correctional Reentry Center, Restitution Community Correctional Center or Return to Custody Substance Abuse Treatment-Unit located in Fresno).~~ Fines and direct orders of restitution may also be collected from ~~I~~inmates in the Community Prisoner Mother and Family Foundations Programs ~~shall also be exempt.~~

Existing subsection 3097(f) is renumbered to subsection 3097(h) and is amended to read:

(~~fh~~) Joint Venture Program deposits, ~~family visit~~ funds designated to pay the costs of a family visit ("family visit funds"), ~~and~~ Temporary Community Leave funds, federal disability payments, veteran benefits, any reimbursement to an inmate as a result of a claim for lost or damaged property, or money reimbursed to an inmate due to a failed attempt to purchase merchandise are exempt from deductions for fines and direct orders of restitution ~~deductions~~ enumerated in subsections (a), ~~and~~ (b), (c) and (d).

Subsection 3097(g) is repealed:

~~(g) No exemptions other than those described in sections (e) and (f) shall be allowed.~~

Existing subsection 3097(h) is renumbered to subsection 3097(i) and is amended to read:

(~~hi~~) Family visit funds and Temporary Community Leave funds shall be ~~indicated~~so designated by the sender on Form 1839 (Rev. 5/97), Exemption of Family Visit/Temporary Community Leave Funds From Restitution Fines/Orders, to be completed in its entirety and returned to staff with the appropriate funds. Any funds received for either of these two purposes that are not accompanied by the prescribed form, properly completed, shall be deposited to the inmate's trust account and shall ~~have~~be subject to a deduction for restitution ~~deducted from the trust account deposit, as described~~

~~in~~ pursuant to sections (a), ~~and~~ (b), (c) and (d), ~~if a court imposed fine or direct order of restitution exists.~~

Existing subsection 3097(i) is renumbered to subsection 3097(j) and is amended to read:

(~~ij~~) ~~If the family visit or Temporary Community Leave does not occur and the f~~Funds ~~originated~~ed ~~ing~~ from the inmate's trust account, ~~then funds shall be re-deposited and no deduction shall be made~~ to pay for a family visit or Temporary Community Leave shall have a hold placed on the designated funds for the exclusive purpose of the upcoming family visit or Temporary Community Leave. The inmate shall not use the designated funds for any other purpose other than the planned family visit or Temporary Community Leave. Should the family visit or Temporary Community Leave not take place then the hold previously placed on the funds shall be removed.

Existing subsection 3097(j) is renumbered to subsection 3097(k) and is amended to read:

(~~jk~~) If the family visit ~~or Temporary Community Leave~~ does not occur, ~~then the~~ funds designated for the family visit on Form 1839 (Rev. 5/97), ~~received~~ shall have a permanent hold placed on them in the inmate's trust account for a future family visit or until the inmate is released on parole. Should the inmate transfer to another institution, the hold shall be removed, the funds deposited into the inmate's trust account, and no restitution deduction shall be made. ~~be held in the inmate's trust account indefinitely, with a hold marking them exclusively for family visit or Temporary Community Leave use and no deduction shall be made. These funds shall be held until the family visit or Temporary Community Leave takes place, or the inmate is released on parole into the community, or the inmate transfers to another departmental facility in which case the funds shall be deposited to the inmate's trust account and no deduction shall be made.~~

Subsection 3097(l) is adopted to read:

(l) If the Temporary Community Leave does not occur, then the funds designated for the leave on Form 1839 (Rev. 5/97), shall be refunded to the sender.

Subsection 3097(m) is adopted to read:

(m) Any remaining balance in the Temporary Community Leave fund for a Temporary Community Leave that took place shall be refunded to the sender.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2085.5 and 5054, Penal Code; and Sections 13967 and 13967.5, Government Code.